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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,457	06/11/2001	Thomas Buchel	P/167-133	7346

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EXAMINER

SERGEANT, RABON A

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 12/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/807,457

Applicant(s)
Buchel

Examiner
Rabon Sergeant

Art Unit
1711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 2, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22, and 25-50 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22, and 25-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6, 22, 31, and 39 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to claims 6 and 39, applicants have failed to define “high-level radiation”. Furthermore, support has not been found in the specification for this term.

With respect to claims 22 and 31, applicants have failed to define or provide support for the language, “elements for technical applications”. Furthermore, it is unclear what is encompassed by “elements for mechanical construction” and “elements for mechanical support” and where support exists for the language.

3. Claims 6 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The use of the word, “high”, within “high-level radiation” renders the claims indefinite, because the word is subjective and has not been defined within the specification.

4. Claims 10 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Within claim 10, “polyurethane” has been misspelled.

5. Claims 1-20, 22, and 25-50 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claims 1-20, 22, and 25-50 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in Paper No. 9, filed October 2, 2002. In that paper, applicant has stated at page 5 that the present invention relates to crosslinked polyurethane-preforms, derived from unsaturated reactants having more than one hydroxyl group per monomer, that are duroplastic and flexible and do not have a melting point, and this statement indicates that the invention is different from what is defined in the claim(s) because the claims contain no requirements that the preform be derived from polyhydroxyl unsaturated compounds and that the preform is crosslinked, duroplastic, flexible, and lacking a melting point.

6. Claims 1-20, 22, and 25-50 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for crosslinked polyurethane preforms derived from at least one starting component which is at least trifunctional, with respect to isocyanate or hydroxyl

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groups, does not reasonably provide enablement for polyurethane preforms which are produced from reactants which lack the necessary functionality to yield a crosslinked preform. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. Applicants have disclosed at page 2 of the specification and page 5 of their response that the preforms of the invention are crosslinked; however, the claims contain no limitations that the preform be crosslinked and that at least one reactant be at least trifunctional.

7. Claim 47 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants have failed to provide any guidance with respect to what “other plastic fibres” can be used within the invention.

8. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). All limitations present within the claims must have antecedent support from the specification; however, this support appears to be lacking with respect to some claimed limitations. For example, support has not been found for all fiber species set forth within claim 47. Therefore, applicants are required to verify that all claim limitations have antecedent basis within the specification.

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9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3, 5-7, 10, 13-17, 19, 20, 22, 25, 27-38, 40, 41, 46, and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al. ('604) or EP 269071.

The references disclose the production of free radical curable polyurethanes, wherein a polyisocyanate is reacted with an active hydrogen containing unsaturated compound, such as a hydroxy acrylate, to yield a polymeric composition suitable for processing, such as molding or shaping, which contains unsaturated double bonds. After the curable composition is finally shaped, the composition is fully cured by free radical polyaddition of the unsaturated double bonds. The final cure is achieved by such means as exposing the composition to radiation. See abstract and columns 4 and 5 within Mori et al. See entire disclosure of EP 269071.

11. The examiner has considered applicants' response; however, the prior art rejection has been maintained with respect to the aforementioned claims. With respect to Mori et al., applicants' response is not commensurate in scope with the claims. Despite applicants' remarks, the instantly claimed preforms are not required to be crosslinked or derived from unsaturated compounds having polyhydroxyl functionality. With respect to EP 269071, applicants' claims are open to the argued components and process steps of the reference. Furthermore, applicants have

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not established that the disclosed composition does not contain at least 0.5 mmole/g of reactive double bonds.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) 308-2982.


RABON SERGENT
PRIMARY EXAMINER

R. Sergent

December 3, 2002